

DAE



**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
VR2-002

First named inventor: Dirk VAN DIJK

Application No.: 09/171,910

Art Unit: 1772

Filed: 03/18/1999

Examiner: CHEVALIER, Alicia Ann

Title: Plastic-Based Composite Product and Method and Apparatus for Manufacturing Same

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

**RECEIVED**

**SEP 02 2004**

**OFFICE OF PETITIONS**

NOTE: If information or assistance is needed in completing this form, please contact  
Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☒ Small entity - fee \$665 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$\_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in  
the form of \_\_\_\_\_ (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

B. The issue fee of \$ 674

- ☒ has been paid previously on May 7, 2004.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

08/31/2004 HALI11 00000035 09171910 665.00 DP 01 FC:2453

## 3. Terminal disclaimer with disclaimer fee

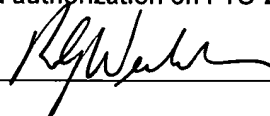
- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

August 18, 2004

Date



Signature

Telephone

Number: (404) 815-3593

Robert G. Weilacher, Reg. No. 20,531

Typed or printed name

1230 Peachtree St NE, Ste 3100, Promenade II

Address

Atlanta, GA 30309-3592

Address

Enclosures: ☒ Fee Payment☐ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unintentional delay☒ Other : Copy of Notice Regarding Improper Request for Continued Examination

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(A)]

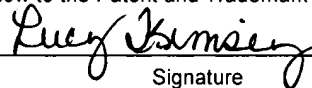
I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the Patent and Trademark Office at (703) 872-9306.

August 25, 2004

Date



Signature

Lucy Kimsey

Typed or printed name of person signing certificate

<h1 style="margin: 0;">FEE TRANSMITTAL</h1> <h2 style="margin: 0;">for FY 2004</h2> <p style="font-size: small; margin: 5px 0;">Effective 10/01/2003. Patent fees are subject to annual revision.</p>		<p style="font-size: x-small; margin: 0;">Complete if Known</p> <div style="border: 1px solid black; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">RECEIVED</div>	
		Application Number	09/171,910
		Filing Date	03/18/1999 <span style="float: right; font-size: 1.2em;">SEP 02 2004</span>
		First Named Inventor	VAN DIJK, Dirk
		Examiner Name	CHEVALIER, Aida <span style="float: right; font-weight: bold;">OFFICE OF PETITIONS</span>
		Art Unit	1772
		Attorney Docket No.	VR2-002
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27			
TOTAL AMOUNT OF PAYMENT		(\$)	665

<p style="text-align: center; font-size: x-small;">METHOD OF PAYMENT (check all that apply)</p> <p> <input type="checkbox"/> Check    <input type="checkbox"/> Credit card    <input type="checkbox"/> Money    <input type="checkbox"/> Other    <input type="checkbox"/> None             </p> <p> <input type="checkbox"/> Deposit Account:             </p> <div style="margin-top: 10px;">                 Deposit Account Number: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 20px;"></span> </div> <div style="margin-top: 10px;">                 Deposit Account Name: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 20px;"></span> </div> <p style="font-size: x-small;">The Director is authorized to: (check all that apply)</p> <p> <input type="checkbox"/> Charge fee(s) indicated below    <input type="checkbox"/> Credit any overpayments  <input type="checkbox"/> Charge any additional fee(s) during the pendency of this application  <input type="checkbox"/> Charge fee(s) indicated below, <b>except for the filing fee</b> to the above-identified deposit account.             </p> <div style="text-align: center; margin-top: 10px;"> <p style="font-weight: bold; font-size: 0.8em;">FEE CALCULATION</p> </div> <div style="margin-top: 10px;"> <p style="font-weight: bold; font-size: 0.8em;">1. BASIC FILING FEE</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.7em;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr> <td>1001</td> <td>770</td> <td>2001</td> <td>385</td> <td>Utility filing fee</td> <td></td> </tr> <tr> <td>1002</td> <td>340</td> <td>2002</td> <td>170</td> <td>Design filing fee</td> <td></td> </tr> <tr> <td>1003</td> <td>530</td> <td>2003</td> <td>265</td> <td>Plant filing fee</td> <td></td> </tr> <tr> <td>1004</td> <td>770</td> <td>2004</td> <td>385</td> <td>Reissue filing fee</td> <td></td> </tr> <tr> <td>1005</td> <td>160</td> <td>2005</td> <td>80</td> <td>Provisional filing fee</td> <td></td> </tr> <tr> <td colspan="4" style="text-align: right; font-weight: bold;">SUBTOTAL (1)</td> <td></td> <td>(\$) 0</td> </tr> </tbody> </table> </div> <div style="margin-top: 10px;"> <p style="font-weight: bold; font-size: 0.8em;">2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE</p> <table style="width: 100%; font-size: 0.7em;"> <tr> <td>Total Claims</td> <td></td> <td>** =</td> <td>0</td> <td>X</td> <td></td> <td>=</td> <td>0</td> </tr> <tr> <td>Independent Claims</td> <td></td> <td>** =</td> <td>0</td> <td>X</td> <td></td> <td>=</td> <td>0</td> </tr> <tr> <td>Multiple Dependent</td> <td></td> <td>X</td> <td></td> <td>=</td> <td>0</td> <td></td> <td></td> </tr> </table> <div style="margin-top: 10px;"> <table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.7em;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr> <td>1202</td> <td>18</td> <td>2202</td> <td>9</td> <td>Claims in excess of 20</td> <td></td> </tr> <tr> <td>1201</td> <td>86</td> <td>2201</td> <td>43</td> <td>Independent claims in excess of 3</td> <td></td> </tr> <tr> <td>1203</td> <td>290</td> <td>2203</td> <td>145</td> <td>Multiple dependent claim, if not paid</td> <td></td> </tr> <tr> <td>1204</td> <td>86</td> <td>2204</td> <td>43</td> <td>** Reissue independent claims over original patent</td> <td></td> </tr> <tr> <td>1205</td> <td>18</td> <td>2205</td> <td>9</td> <td>** Reissue claims in excess of 20 and over original patent</td> <td></td> </tr> <tr> <td colspan="4" style="text-align: right; font-weight: bold;">SUBTOTAL (2)</td> <td></td> <td>(\$) 0</td> </tr> </tbody> </table> </div> </div>	Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1001	770	2001	385	Utility filing fee		1002	340	2002	170	Design filing fee		1003	530	2003	265	Plant filing fee		1004	770	2004	385	Reissue filing fee		1005	160	2005	80	Provisional filing fee		SUBTOTAL (1)					(\$) 0	Total Claims		** =	0	X		=	0	Independent Claims		** =	0	X		=	0	Multiple Dependent		X		=	0			Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1202	18	2202	9	Claims in excess of 20		1201	86	2201	43	Independent claims in excess of 3		1203	290	2203	145	Multiple dependent claim, if not paid		1204	86	2204	43	** Reissue independent claims over original patent		1205	18	2205	9	** Reissue claims in excess of 20 and over original patent		SUBTOTAL (2)					(\$) 0	<p style="text-align: center; font-size: x-small;">FEE CALCULATION (continued)</p> <p style="font-weight: bold; font-size: 0.8em;">3. ADDITIONAL FEES</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.7em;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr> <td>1051</td> <td>130</td> <td>2051</td> <td>65</td> <td>Surcharge - late filing fee or oath</td> <td></td> </tr> <tr> <td>1052</td> <td>50</td> <td>2052</td> <td>25</td> <td>Surcharge - late provisional filing fee or cover sheet.</td> <td></td> </tr> <tr> <td>1053</td> <td>130</td> <td>1053</td> <td>130</td> <td>Non-English specification</td> <td></td> </tr> <tr> <td>1812</td> <td>2,520</td> <td>1812</td> <td>2,520</td> <td>For filing a request for reexamination</td> <td></td> </tr> <tr> <td>1804</td> <td>920*</td> <td>1804</td> <td>920*</td> <td>Requesting publication of SIR prior to Examiner action</td> <td></td> </tr> <tr> <td>1805</td> <td>1,840*</td> <td>1805</td> <td>1,840*</td> <td>Requesting publication of SIR after Examiner action</td> <td></td> </tr> <tr> <td>1251</td> <td>110</td> <td>2251</td> <td>55</td> <td>Extension for reply within first month</td> <td></td> </tr> <tr> <td>1252</td> <td>420</td> <td>2252</td> <td>210</td> <td>Extension for reply within second month</td> <td></td> </tr> <tr> <td>1253</td> <td>950</td> <td>2253</td> <td>475</td> <td>Extension for reply within third month</td> <td></td> </tr> <tr> <td>1254</td> <td>1,480</td> <td>2254</td> <td>740</td> <td>Extension for reply within fourth month</td> <td></td> </tr> <tr> <td>1255</td> <td>2,010</td> <td>2255</td> <td>1,005</td> <td>Extension for reply within fifth month</td> <td></td> </tr> <tr> <td>1401</td> <td>330</td> <td>2401</td> <td>165</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>1402</td> <td>330</td> <td>2402</td> <td>165</td> <td>Filing a brief in support of an appeal</td> <td></td> </tr> <tr> <td>1403</td> <td>290</td> <td>2403</td> <td>145</td> <td>Request for oral hearing</td> <td></td> </tr> <tr> <td>1451</td> <td>1,510</td> <td>1451</td> <td>1,510</td> <td>Petition to institute a public use proceeding</td> <td></td> </tr> <tr> <td>1452</td> <td>110</td> <td>2452</td> <td>55</td> <td>Petition to revive - unavoidable</td> <td></td> </tr> <tr> <td>1453</td> <td>1,330</td> <td>2453</td> <td>665</td> <td>Petition to revive - unintentional</td> <td>665</td> </tr> <tr> <td>1501</td> <td>1,330</td> <td>2501</td> <td>665</td> <td>Utility issue fee (or reissue)</td> <td></td> </tr> <tr> <td>1502</td> <td>480</td> <td>2502</td> <td>240</td> <td>Design issue fee</td> <td></td> </tr> <tr> <td>1503</td> <td>640</td> <td>2503</td> <td>320</td> <td>Plant issue fee</td> <td></td> </tr> <tr> <td>1460</td> <td>130</td> <td>1460</td> <td>130</td> <td>Petitions to the Commissioner</td> <td></td> </tr> <tr> <td>1807</td> <td>50</td> <td>1807</td> <td>50</td> <td>Processing fee under 37 CFR 1.17 (q)</td> <td></td> </tr> <tr> <td>1806</td> <td>180</td> <td>1806</td> <td>180</td> <td>Submission of Information Disclosure Stmt</td> <td></td> </tr> <tr> <td>8021</td> <td>40</td> <td>8021</td> <td>40</td> <td>Recording each patent assignment per property (times number of properties)</td> <td></td> </tr> <tr> <td>1809</td> <td>770</td> <td>2809</td> <td>385</td> <td>Filing a submission after final rejection (37 CFR § 1.129(a))</td> <td></td> </tr> <tr> <td>1810</td> <td>770</td> <td>2810</td> <td>385</td> <td>For each additional invention to be examined (37 CFR § 1.129(b))</td> <td></td> </tr> <tr> <td>1801</td> <td>770</td> <td>2801</td> <td>385</td> <td>Request for Continued Examination (RCE)</td> <td></td> </tr> <tr> <td>1802</td> <td>900</td> <td>1802</td> <td>900</td> <td>Request for expedited examination of a design application</td> <td></td> </tr> <tr> <td colspan="5" style="padding-top: 10px;">Other fee (specify) _____</td> <td></td> </tr> <tr> <td colspan="5" style="text-align: right; 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1402	330	2402	165	Filing a brief in support of an appeal																																																																																																																																																																																																																																																																																																															
1403	290	2403	145	Request for oral hearing																																																																																																																																																																																																																																																																																																															
1451	1,510	1451	1,510	Petition to institute a public use proceeding																																																																																																																																																																																																																																																																																																															
1452	110	2452	55	Petition to revive - unavoidable																																																																																																																																																																																																																																																																																																															
1453	1,330	2453	665	Petition to revive - unintentional	665																																																																																																																																																																																																																																																																																																														
1501	1,330	2501	665	Utility issue fee (or reissue)																																																																																																																																																																																																																																																																																																															
1502	480	2502	240	Design issue fee																																																																																																																																																																																																																																																																																																															
1503	640	2503	320	Plant issue fee																																																																																																																																																																																																																																																																																																															
1460	130	1460	130	Petitions to the Commissioner																																																																																																																																																																																																																																																																																																															
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)																																																																																																																																																																																																																																																																																																															
1806	180	1806	180	Submission of Information Disclosure Stmt																																																																																																																																																																																																																																																																																																															
8021	40	8021	40	Recording each patent assignment per property (times number of properties)																																																																																																																																																																																																																																																																																																															
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))																																																																																																																																																																																																																																																																																																															
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))																																																																																																																																																																																																																																																																																																															
1801	770	2801	385	Request for Continued Examination (RCE)																																																																																																																																																																																																																																																																																																															
1802	900	1802	900	Request for expedited examination of a design application																																																																																																																																																																																																																																																																																																															
Other fee (specify) _____																																																																																																																																																																																																																																																																																																																			
SUBTOTAL (3)					(\$) 665																																																																																																																																																																																																																																																																																																														

\*or number previously paid, if greater; For Reissues, see above

SUBMITTED BY				Complete (if applicable)	
Name (Print/Type)	Robert G. Weilacher	Registration No. (Attorney/Agent)	20,531	Telephone	(404) 815-3593
Signature				Date	August 18, 2004

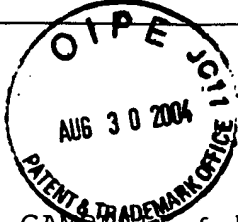
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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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SUITE 3100, PROMENADE II  
1230 PEACHTREE STREET, N.E.  
ATLANTA, GA 30309-3592

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JUL 26 2004

In re Application of : OFFICE OF PETITIONS  
Van Dijk et al. :  
Application No. 09/171,910 : NOTICE REGARDING  
International Filing Date: : IMPROPER REQUEST  
April 27, 1995 : FOR CONTINUED  
371 Date: March 18, 1999 : EXAMINATION (RCE)  
Title of Invention: PLASTIC-BASED :  
COMPOSITE PRODUCT AND METHOD AND :  
APPARATUS FOR MANUFACTURING SAME :

Background:

Applicant filed a Request for Continued Examination (RCE) under 37 CFR 1.114 on July 11, 2002 in the above-identified application, which is the National Stage of an International Application filed on April 27, 1995. The RCE was improper because the provisions of 37 CFR 1.114 do not apply to an international application filed under 35 U.S.C. 363 before June 8, 1995. See 37 CFR 1.114(e)(3).

A request for continued examination is not a type of new application filing. See Request for Continued Examination Practice and Changes to Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092, 50097 (August 16, 2000). The Office cannot convert an improper RCE to an application, such as a continuing application under 37 CFR 1.53(b) or (d). An improper RCE will not operate to toll the running of any time period set in the previous Office action for reply to avoid abandonment of the application. See Manual for Patent Examining Procedure (MPEP) 706.07(h), page 700-70, subsection III.A., "Treatment of Improper RCE", (8<sup>th</sup> Ed. 2001).

In the instant case, a final Office action was mailed on March 14, 2002. Under 35 U.S.C. § 133, an applicant has six (6) months to reply to an Office action. Upon failure to prosecute the application within six months of notice of the Office action, the application shall be regarded as abandoned. This statutory requirement may not be waived by the Office. The filing of the improper RCE on July 11, 2002 did not toll the time period set forth in the Office action mailed on March 14, 2002. Thus, the application became **abandoned on September 17, 2002** for

the failure to reply to the Office action mailed on March 14, 2002.

The Office, however, mistakenly treated the improper RCE as a proper RCE and reopened the prosecution of the application. A non-final Office action was mailed on October 4, 2002. An Amendment was filed on January 6, 2003. A final Office action was mailed on March 25, 2003. A Notice of Appeal and an Amendment, along with an extension of time were filed on September 26, 2003. An Advisory Action was mailed on October 28, 2003. A second improper RCE was filed on November 24, 2003. A Notice of Allowance and Notice of Allowability were mailed on February 9, 2004 and February 11, 2004 respectively. The Office regrets the delay in notifying Applicant of this error.

Applicants may file a petition under 37 CFR 1.137(b) to revive the application, accompanied by the payment of issue fee within **two (2) months from the date of this Notice. This time period may not be extended.** Applicant may request a refund of the RCE fees.

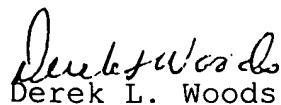
Any petition under 37 CFR 1.137(b) should be addressed as follows:

By mail: Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

By FAX: (703) 872-9306  
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office  
220 20<sup>th</sup> Street S.  
Customer Window, Mail Stop Petition  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.



Derek L. Woods  
Petitions Attorney  
Office of Petitions